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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY: 

DEPUTY

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12 UNITED STATES DISTRICT COURT  
13 SOUTHERN DISTRICT OF CALIFORNIA  
14 SAN DIEGO DIVISION

07 CV 2088

JAH CAB

15 FORTUNE GROWERS, LLC, a  
16 Nevada limited liability company,

17 Plaintiff,

18 vs.

19 SOUTHERN CITRUS, INC., a  
20 California corporation; HANA GIBO,  
21 an individual; and SABAH  
22 YOKHANNA, an individual,

23 Defendants.

Case No.: \_\_\_\_\_

PLAINTIFF'S EX-PARTE MOTION  
FOR TEMPORARY RESTRAINING  
ORDER

24 Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, Plaintiff,  
25 Fortune Growers, LLC ("Fortune Growers"), applies to this Court for entry of a  
26 Temporary Restraining Order without Notice ("TRO") against Defendant,  
27  
28

1 Southern Citrus, Inc. ("Southern Citrus"). In support of its Application, Fortune  
2 Growers states as follows:

3 1. Fortune Growers bases its request upon the Memorandum of Points  
4 and Authorities in Support of the instant Motion, the Certification of Counsel as  
5 to Why Notice Should Not Be Required Pursuant to Federal Rule 65(b), and the  
6 Affidavit of Luis Solarte filed contemporaneously with this pleading.  
7

8 2. The proposed TRO attached to Fortune Growers' moving papers  
9 seeks to enjoin Southern Citrus, its agents, employees, successors, banking  
10 institutions, attorneys, and all other persons in active concert or participation  
11 with them, including Defendants, Hana Gibo and Sabah Youkhanna, from  
12 using, consuming or otherwise dissipating trust assets under the Perishable  
13 Agricultural Commodities Act of 1930, as amended, 7 U.S.C. §§499a-t *et seq.*  
14 ("PACA"), or making payment of any PACA trust asset to any creditor, person,  
15 or entity until further order of this Court or upon agreement of Fortune  
16 Growers.  
17

18 3. Absent the relief requested in this Application, Fortune Growers  
19 will suffer immediate and irreparable injury, loss, and damage because  
20 Defendants will continue dissipating Plaintiff's interest in the statutory trust  
21 until Judgment can be granted on the merits.  
22

23 4. Because Defendants already possess \$115,266.40 of PACA trust  
24  
25  
26  
27  
28

1 assets, which are Fortune Growers' properties, Fortune Growers submits that  
2 this serve as the security for the injunctive relief required by Rule 65(c) of the  
3 Federal Rules of Civil Procedure.

4  
5 5. No prior application for such relief has been made in this matter.

6 WHEREFORE, Fortune Growers requests that the Court enter the Ex-  
7 Parte Temporary Restraining Order filed contemporaneously herewith  
8 enforcing the statutory trust pursuant to Section 5(c) of PACA, 7 U.S.C.  
9 §499e(c)(4), along with such other and further relief as this Court deems just in  
10 these premises.  
11

12  
13 Respectfully submitted this 26<sup>th</sup> day of October, 2007.

14 MEUERS LAW FIRM, P.L.

15  
16 By:

  
Lawrence H. Meuers

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